



**ARIZONA SUPREME COURT  
ORAL ARGUMENT CASE SUMMARY**



**CITY OF PHOENIX v. JOHN E. GARRETSON  
CV-13-0181-PR**

**PARTIES:**

*Petitioner:* The City of Phoenix

*Respondents:* John E. Garretson as Trustee of the Emery E. Oldaker Trust and John E. Garretson, an Unmarried Man

**FACTS:**

John E. Garretson (“Garretson”) owns a 36,000-square-foot parcel of real property (the Property) in downtown Phoenix that is currently used as a commercial parking lot. The Property abuts Jefferson Street to the north, 1st Street to the east, and Madison Street to the south. In February 2005, the City of Phoenix (“the City”) offered to purchase a temporary construction easement on 492 square feet of the Property for use in connection with the construction of Light Rail. Garretson agreed.

As part of Light Rail construction, the City placed rail tracks on the south side of Jefferson Street between the one-way eastbound traffic lanes and the Property. Upon completion of Light Rail, the City constructed a concrete barrier along the south side of the Light Rail tracks which permanently blocked two driveways on the Property that had allowed access to Jefferson Street. Garretson, however, still retained access to the Property from Madison Street.

Shortly after completing Light Rail, the City filed a complaint in eminent domain to determine the just compensation to be paid to Garretson for “taking of the temporary construction easement and property rights necessary for the stated public purpose.” In his answer, Garretson claimed the right to be compensated for the loss of the Property’s access to Jefferson Street and the resulting reduction in property value. The City moved for partial summary judgment, seeking a ruling that Garretson was not entitled to compensation for loss of access to Jefferson Street. The City argued that it had exercised its authority to control access to roadways as part of its police power, and that any damage to the Property from loss of access to Jefferson Street was non-compensable. Alternatively, the City argued that, because Garretson retained access to the Property through other routes, his access had not been substantially impaired in a manner justifying compensation.

The trial court granted partial summary judgment for the City, reasoning that a property owner may not receive compensation of loss of access to a thoroughfare if the owner retains “free and convenient access” to the property and its improvements.

Garretson appealed. The Court of Appeals reversed, holding that, when the government eliminates a property owner's established access to an abutting street and the owner retains access from another street, the owner is not necessarily foreclosed from obtaining compensation for damages to the property. To support such a claim, the owner must prove that access to the abutting street has either been destroyed or substantially impaired and such destruction or impairment has reduced the value of the property.

The City of Phoenix filed a Petition for Review to the Arizona Supreme Court, which the Court granted.

**ISSUES:**

1. Did the Court of Appeals incorrectly hold that the City, when exercising its police power to regulate traffic flow and promote public safety, may be liable for eliminating access to a particular street even when the property retains direct access to the system of public streets?
2. Did the Court of Appeals fail to follow existing Supreme Court precedent when it concluded that a property owner has a right of direct access to a particular public street?
3. Did the Court of Appeals incorrectly find that the trial court erred in concluding as a matter of law that the exercise of the City's police power was non-compensable, and that Garretson's remaining access was not "unreasonably circuitous" or "substantially impaired"?

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